

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Joseph B. Bey, Jr.,
Petitioner/Plaintiff,

-vs-

United States Department of Justice,
Respondent/Defendant

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Civil No. 05-11757-REK

PETITIONER'S TRAVERSE TO GOVERNMENT'S OPPOSITION PURSUANT
TO 28 U.S.C. § 2241

Now comes Joseph B. Bey, Jr. proceeding In propria persona in the above styled action and numbered cause, to be referred herein after as "Petitioner", respectfully moving this most honorable court with his traverse to the government's ("Respondent") opposition to the petition filed pursuant to 28 U.S.C. § 2241.¹ In support of this motion petitioner hereby avers as follows:

The petitioner has raised a claim under the provisions of Title 28 U.S.C. § 2241, after exhausting his administrative remedies, in the Federal Bureau of Prisons ("FBOP") to challenge and correct the effect of events that were 'subsequent' to the conviction and imposition of sentence. Section 2241 has been established as a separate statutory enactment, as such it is

¹ 28 U.S.C. § 2248 states: "The allegations of a term of the habeas corpus or an answer to an Order to "Show Cause" in a habeas corpus proceeding if not Traversed shall be accepted as true."

entitled to its own reading and should not be constrained by case law previously articulated for § 2254 and 2255 cases. The need for deterrence to adverse actions in a prison environment is paramount, and 2241 is a continuing mandate from Congress, that insures all sentences be carried out appropriately, and in accordance with the constitutional protections provided.

The Department of Justice ("DOJ"), through its branch of the Federal Bureau of Prisons ("FBOP"), has prosecuted an action of which the United States Attorney's Office concurs with, that adversely affects the manner in which petitioner's sentence is being carried out. The power and authority of the court generally, under proper circumstances, judgments of a court of record are subject to be opened up, modified, corrected, set aside and vacated. The power of the court so to act, though much modified by statute, existed at common law, and has always been exercised in the judicial discretion of the court. Here, petitioner has invoked jurisdiction of the court, to so act, pursuant to a writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 1331.²

**THE GOVERNMENT'S ATTEMPT TO RECHARACTERIZE PETITIONER'S
PLEADING INTO THAT OF AN ACTION UNDER § 2255 LACKS MERIT**

The matter of recharacterization of a pro se prisoner's pleading has been addressed on a number of occasions, by the Circuit Courts. All of these courts have reasoned that a pro se

² 28 U.S.C. § 2241 is the proper avenue, where petitioner has exhausted his administrative remedies, regarding actions of the prison system, thereby seeking the issuance of a writ of habeas corpus to correct said adverse action.

petitioner "[h]aving dictated the terms of engagement was entitled to have his motion decided as he framed it." ³ In Raineri v. United States, 233 F. 3d 96 (1st Cir. 2000), it was confirmed, that a conversion, initially justified because it harmlessly assisted the prisoner-movant in dealing with legal technicalities, may result in a disastrous deprivation of a future opportunity to have a well-justified grievance adjudicated. The court's own act of conversion which was approved under the pre AEDPA law because it was lawful and harmless might under AEDPA's new law, become extraordinary harmful to a prisoner's rights.

In United States v. Miller, 197 F.3d 644 (3rd Cir. 1999) (quoting Adams, 155 F.3d at n.10), it was stated that District Courts should not automatically treat pro se post conviction motions as motions attacking sentence; ⁴ rather, upon receipt of pro se pleading challenging inmates conviction or incarceration, whether styled as a motion attacking sentence or not, district court should issue a notice to petitioner regarding effect of his pleading.

Under AEDPA, the practice of liberal characterization that once opened doors of the federal courts to pro se litigants, now

³ See Pratt v. United States, 129 F. 3d 54, 58 (1st Cir. 1997) (discussing statutory regime); United States v. Miller, 197 F.3d 644 (3rd Cir. 1999); United States v. Kelly, 235 F.3d 1238 (10th Cir. 2000); and Adams v. United States, 155 F.3d 582 (2nd Cir. 1998).

⁴ Mr. Bey did not contest either the basis or length of his confinement, but complained about the conditions of his confinement. Jurisdiction is also grounded in 28 U.S.C. § 1343(3).

threatens unintentionally to close them shut. Federal Courts have long recognized that they have an obligation to look behind the label of a motion filed by a pro se inmate and determine whether the motion is, in effect, cognizable under a different remedial statutory framework. This obligation stems from the time honored practice of construing pro se plaintiff's pleadings liberally.⁵

**ACTIONS OF THE FBOP PROVIDE A VIABLE FOUNDATION FOR
PETITIONER'S LEGAL ENTITLEMENT CLAIM TO DUE PROCESS
UNDER 28 U.S.C. § 2241**

The petitioner argues that decisions contrary to assurances made by FBOP officials, and adverse to his liberty interest, has justified the action currently before this court. Attached and incorporated by reference, is a documented record of custody classification events, that will affirmatively establish petitioner's claim to the FBOP assured entitlement. This argument is premised on the fact that petitioner was told verbally, and through writing,⁶ that he would be able to earn custody level reductions for demonstrating a positive institutional adjustment that would allow eventual "camp placement." To earn these he would have to comply with the established program objectives, which includes taking adult continuing education courses;

⁵ See Haines v. Kerner, 404 U.S. 519, 520 S.Ct. 594, 30 L.Ed 2d 652 (1972) ("[A]llegations such as those asserted by petitioner, however inartfully pleaded, are sufficient to call for the opportunity to offer supporting evidence").

⁶ During mandatory unit team/inmate classification meetings, documents were provided to Mr. Bey that supports his belief in earning minimum custody (camp) placement.

clear conduct; and completing his court imposed financial responsibility ("FRP") payments towards satisfying the special assessment.

Upon completing the designation, and petitioner's transport to his parent institution, at the Federal Correctional Institution ("FCI") Ray Brook, in New York, an initial custody classification was scored by the unit team. Petitioner was instructed by FBOP officials, that he had been scored as a "High Security" custody level inmate, with 25 points.⁷ At this time petitioner was instructed that his custody points would gradually be lowered, so that he could earn the minimum custody placement. FCI Ray Brook, is considered a medium-high security level prison.⁸

Because of this security level, the petitioner was told by his institution case manager, that a "Management Variable" had to be placed on him, to keep him at Ray Brook, instead of transferring him to a high security penitentiary.⁹

⁷ An inmates initial custody classification shall be scored at the first program review following initial classification (approximately 7 months after arrival at an institution). Subsequent reviews shall occur at least every 12 months, but may be conducted earlier in order to enable **progress toward community activities**. Custody classification shall ordinarily occur in conjunction with every second program review. See PS 5100.07 Ch.8, page 1.

⁸ Security level used to describe the structural variables and inmate-to-staff ratio provided at the various types of Bureau institutions (i.e., Minimum, Low, Medium, High). It also identifies the institution type required to house inmates based on their histories, institutional adjustment, and Public Safety Factors as well as the physical security of the institution to include mobile patrols, gun towers, perimeter barriers, housing, detection devices, inmate-to staff ratio, and internal security. PS 5100.07 Ch.2 page 5.

⁹ Management variables reflect and support the professional judgment of Bureau staff to ensure the inmates placement in the most appropriate level institution. Management variables are required when placement has been made and/or maintained at an institution level inconsistent with inmates security score..." PS 5100.07 Ch.2, page 3.

By carefully following the attached "Custody Classification Forms" provided herewith, we can see that petitioner began with 25 custody level points (from July 1998 to February 1999). On or about July 31, 1999 petitioner's points were reduced to 21. On July 28, 2000, a "Program Review" documents that petitioner had "maintained clear conduct, good work reports, completed standard of living (program study class), participating in FRP." The "Long Term Goals" section of this same document, supports that petitioner had an expectation of "reduced security level."

On or about February 8, 2000, a custody form demonstrates that petitioner earned a custody reduction from high to medium security (from 21 down to 9 points), and the management variable was removed. On a program review dated August 5, 2000, the work performance at petitioner's job placement in the institutions Tool room (A place in the facility where an inmate must be trusted and cleared by the Warden, Captain, Security Investigative Services ("SIS") and his unit team) rated him with "excellent work reports." On page 2 of the same document, the "Long Term Goals" section states "Reduce Custody/Security levels complete FRP obligation."

On or about February 6, 2001, petitioner's custody points were again reduced from 9 down to 7 points, which scored him at a "low security prisoner." This form also reflects that the required obligations were being met. It is vital to add that this document has an area highlighted with a star stating: "* You are now a low level inmate, will consider X-fer. (Sic) to low level."

facility (Ft. Devens)." Petitioner was congratulated by his unit team, for reducing his custody level, and instructed that if he continues to maintain his efforts he will eventually be eligible for minimum (camp) placement.

On or before June 21, 2001, after arriving at FMC Devens, petitioner's custody level was further reduced to 6 points. On or about September 10, 2002, a form was given to petitioner stating that he has successfully completed his FRP obligation to the court. On or between September 13, 2004 and April 29, 2005, petitioner inquired as to why his custody level points have not been further reduced. He was then told that his custody would never go below 6 points, and that was because he had a Greater Severity PSFV placed upon him, derived from his "enhancement for Leader/Organizer role and drug amount attributed in the PSR."¹⁰

Constitutionally protected "Liberty interest" in custody and confinement classifications are created by regimes which in the end effectively say "If fact A, B, and C are established in an appropriate fact finding process, you are thereupon legally entitled to a more favorable security custody classification than you presently have. See Slezak v. Evatt, 21 F.3d 590 (4th Cir. 1994). Its effect must be to "plac[e] substantive limitations on official discretion, thereby giving rise, at limits imposed upon discretion to "legitimate claim[s] of entitlement," to classification sought and administratively denied.

¹⁰ Mr. Bey was not aware of this change in his custody level determination until after the Sixth Amendment concerns delineated in U.S. v. Booker, ___ U.S. ___, 125 S.Ct. 738, 160 L.Ed 2d 621 (2005).

With this reasoning, petitioner can affirmatively demonstrate "legal entitlement" to due process, within the protectional guards of the United States Constitution and "legal entitlement" to a standard of proof that maintains a constitutional degree of correctness is to be exercised by the FBOP, in determining the manner in which a petitioner's sentence will be carried out.¹¹ The written record aids petitioner with his demonstration of the FBOP asserted entitlement.¹²

The justification recently given by the Department of Justice (FBOP and U.S Attorney's Office) for the PSFV, is that it is factored from the enhancement portion of the PSR, upon which could reasonably be argued, that the Supreme Court invalidated with the Blakely/Booker pronouncement.¹³ If the Court was reasoned by Blakely/Booker to be without authority to impose the enhanced penalties in question, then arguably so, the same should hold true, in the sense that the FBOP cannot, subsequent to the imposition of the sentence, and acknowledgment of the possible implications of Booker (In the DOJ General Counsel December 3, 2004 Memorandum incorporated with the § 2241 pleading) apply additional penalties after Booker was decided, based on those

¹¹ Mr. Bey asserts that without the PSFV Greater severity, his custody points would be below 5 points (Possibly 2 points at this time), based on what he was led to believe would bring him closer to progressing towards community based activities. See PS 5100.07 Ch.8, page 1, ¶ 2 (1/31/2002).

¹² This assurance and understanding was removed by the Unit Team in 2005, based on the "Leader/Organizer adjustment, and quantity of drugs attributed in the PSR.

¹³ See Department of Justice Office of General Counsel Memorandum Dated December 3, 2004, discussing in part "The Bureau cannot effect any change to your sentence unless an amended judgment, or order, issued by the appropriate court..."

very same enhancements.¹⁴

The FBOP has, and will continue to interpret the enhancement factors in the PSR, to apply the PSFV against petitioner up and until this honorable court moves to grant a resentencing. This would allow the probation department the opportunity to make the appropriate corrections, in the interest of fairness and justice. The Department of Justice ("DOJ") Memorandum referenced in this argument, dated December 3, 2004, authorizes the relief requested by asserting: "...the Bureau does not have the authority to interpret the (Booker) opinion as it relates to your specific case. Again it will be up to you to petition the court that sentenced you..."

**THE DEPARTMENT OF JUSTICE'S READING AND INTERPRETATION
OF THE PSR WHICH JUSTIFIED THE PSFV OF GREATER SEVERITY
IS IN ERROR AND RELIEF IS WARRANTED**

The petitioner argues that DOJ Officials have caused petitioner to be denied a liberty interest concern, resulting from information inaccurately derived from the PSR, or deemed unconstitutionally applied, in violation of the Sixth Amendment.¹⁵ The operational classification regulations being exercised by the DOJ, through the PSR is void of the link between the substantive

¹⁴ The BP-9 Response states: "According to your PSR, you were a leader in a drug network which was responsible for distributing 29.6 kilograms of cocaine." (Mr. Bey was not charged as a "leader" or with distribution in the PSR); BP-10 Response: "...you received a 3-level enhancement..." BP-11 (Same).

¹⁵ Mr. Bey can cite numerous cases which held that a plaintiff may request amendment of his records in the possession of a federal agency. See Sellers v. Bureau of Prisons, 959 F.2d 311 (D.C. Cir. 1992); Pototsky v. United States Department of the Navy, 717 F.Supp. 20 (D.Mass. 1989); Kellett v. United States Bureau of Prisons, 856 F.Supp. 65 (D.N.H. 1994); and Reyes v. Supervisor of Drug Enforcement Admin., 647 F.Supp. at 1509-1513 (D.P.R. 1986).

predicates and the mandatory constitutional application.

The respondent concedes that there were changes made in the policy statement, to which petitioner refers, but ignores the full scope of the change in determining a PSFV for Greatest Severity. In PS 5100.07 (9/3/1999 Appendix B, page 1) it states in part:

"Any drug offender whose current offense includes the following criteria shall be scored in the Greatest Severity category:

The offender was part of an organizational network and he or she organized or maintained ownership interest/ profits from large-scale drug activity,

*** AND ***

the drug amount equals or exceeds the amount below:

Cocaine greater than or equal to 10,000 gm, 10k, or 22 lb. (The part pertaining to Bey is quoted).

As we can see, there was a great deal of emphasis placed on including the " *** AND *** " because a reasoned reading would dictate that both elements had to be met, to apply the PSFV in a drug case.

The change to the policy statement in 2002, took an approach at the determining factor to apply the PSFV-for a drug crime. See [PS 5100.07 CN-2 1/31/2002, Appendix G, page 1]. This page has clarification as to whom to consider in the PSFV application of a "Drug Organizer/Leader."¹⁶ We now look to the sentencing transcripts, as quoted by respondent on page 10 of the opposition:

"... I think its quite appropriate as the probation

¹⁶ "Read the: 'Offense conduct' section of the PSI and any other available information to understand what the inmate did in the criminal activity. The functions are listed in descending order of SERIOUSNESS." There are preceding titles and descriptions that follow this application for placement of the PSFV.

officer has concluded that the defendant Bey operated at a lower level than Moore and Jubba and **should not be classified as a manager**, but I find ... he was deserving of the three-level enhancement as a **supervisor ...**" (emphasis mine) [Sent Tr: page 16, lns.5-15].

Looking at the accompanying page [PS 5100.07, Appendix G, page 2] there are defined titles as to who is "NOT A DRUG ORGANIZER/LEADER." The Court, as respondent concedes, did not classify petitioner as a "manager," but under the term "Supervisor." For this reason, the respondent's application of "Leader/Organizer" in attributing the PSFV becomes an additional enhancement, beyond the offense of conviction and sentencing, to which could reasonably be asserted as a viable claim of "actual innocence" of the FBOP enhancement to "Organizer/Leader" invoking due process.¹⁷

The non retroactive effect of U.S. v. Booker, is not an issue that needs addressing, as this case challenges the events subsequent to the conviction and sentence. In this sense, another argument along this line of reasoning, would be that the Supreme Court made Booker, to "apply today's holding ... to all cases on direct review." The controlling part of this reasoning in the pronouncement is " ... with no exception for cases in which the new rule constitutes a 'clear break' with the past.'" Quoting Griffith v. Kentucky, 479 U.S. 314, 328 (1987).

This portion of the Supreme Courts opinion would tend to infer, that if a situation has arisen in the present, such as

¹⁷ See Little v. United States, 2002 WL 1424581 (D. Mass.) (unpublished opinion) For the proposition of challenging "actual innocence" review for an enhancement factor.

the situation currently before this court, then the respondent's argument of retroactivity is of no effect. This would be so, because a "clear break with the past" could be read to infer a change in the FBOP's reading and application of PSR enhanced factors.

Finally, in addressing respondent's argument IV, petitioner concedes that he was sentenced under a mandatory sentencing guidelines structure, prior to the decision in Booker. It also goes on to assert: "... there is no indication that the Court would have sentenced Bey to a lesser term or would have declined to impose a role-in-offense enhancement, had the court viewed the sentencing guidelines as advisory. See United States v. Casas, 425 F.3d 23, 59 (1st Cir. 2005)..." The petitioner rebuts this presumption, by first stating that the Sixth Amendment claim delineated in the Blakely/Booker, decision has been preserved, throughout the course of the proceedings.

In fact, the respondent concedes, that petitioner had "... challenged his sentence in three respects: the calculation of the amount of cocaine, the enhancement for obstruction of justice and the enhancement for his supervisory role. He argued that given the enhanced penalties, each of these elements should have been proven beyond a reasonable doubt..."¹⁸ There are a series of cases, in which the circuit courts have addressed the

¹⁸ During every stage of the proceedings (Sentencing, Direct Appeal, and § 2255), Mr. Bey argued pro se, that the enhancement factors imposed should have been determined beyond a reasonable doubt, under the Sixth Amendment pre Apprendi, Blakely, and Booker, thereby diligently preserving his claim.

preservation of a Sixth Amendment "Booker" error.¹⁹

The Court at sentencing, mentions petitioner's "hand written" objections to the PSR (Where petitioner first preserved the Blakely/Booker error) See [Sent. Tr: page 2, lns. 9-18]. It could reasonably be inferred from the record, that the Court, in responding to defense counsel's comments, regarding the severity of the sentence of 27 years, the Court stated in part:

"... This is not an issue as to which this Court has any authority to disregard the guideline (mandatory scheme) system and the statutory provisions with respect to it..." [Sent. Tr: page 35, lns. 2-9]. (emphasis added)

Also: "... There may be differences of opinion about whether offenses of this category, drug offenses in particular, deserve the level of severity of treatment that Congress and the Guidelines Commission have determined, but those are issues to be decided in another forum, not issues with respect to which it is appropriate for this Court to disregard the authoritative sources that it is obligated to follow in making the determination in cases before it..."

It can appropriately be argued that this petitioner has afforded this honorable court with the perfect "forum" to voice its opinion, concerning both the implications of the argument before it, as well as addressing the fact as to whether this

¹⁹ See United States v. Antonakopoulos, 399 F.3d 68 (1st Cir. 2005); United States v. Crosby, 397 F.3d 103 (2nd cir. 2005); United States v. Ameline, 401 F.3d 1007 (9th Cir. 2995)(en banc); United States v. Casas, 425 F.3d 8, 10 (1st Cir. 2005); The Forth prong test in United States v. Olano, 507 U.S. 725, 113 S.Ct. 1770, 123 L.Ed 2d 508 (1993), which deals with un preserved error and is quoted in the above cited cases.

court would have imposed a lesser sentence, had it known at the time that the sentencing guidelines were advisory. At present, the respondent cannot conclusively prove otherwise. As reasoned in Casas, this would justify further development of this issue, upon the remand for the resentencing requested under § 2241.

CONCLUSION

The Supreme Court in Marbury v. Madison, 5 U.S. 137 (1803), stated that if a defendant has a right, and that right has been violated, do the laws of this country afford him remedy? [5 U.S. 137, 163]. The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. "While a lawmaker is entirely free to ignore ordinary meanings of words and make definitions of its own, that device may not be employed so as to change the nature of acts or things to which words are applied." See Carter v. Carver Coal Co., 298 U.S. 238, 56 S.Ct 855 (1936).

To remedy the situation concerning the "substantive predicates" used to govern the FBOP's official decision making from factors interpreted from the PSR, it is necessary, and respectfully prayed that this court compel a result that requires that any result reached by the FBOP through the use of the PSR are contingent upon the finding that constitutionally applied predicates are met. Constitutionally applied predicates to which compliance is sought, is through the protection of the Sixth Amendment, that culpability for subsequent sentencing punishment be found at a no lesser standard than applied to the Courts.

EPILOGUE

The petitioner has learned a valuable lesson, throughout this ordeal, and that is to stay focused on making a positive and legal contribution to his family and in society. Concerning the "entitlement" argument raised herein, petitioner focuses on the fact that he was given assurances by FBOP officials that he could and would earn a "minimum custody" (camp) placement.

On this, he gave his promise and word to his children he would do all he could to earn the asserted camp placement, where a possibility exists that they could walk outside together, laugh and cry together. This would remove the effect of family visiting him in an environment where they saw and heard the harsh conditions of "gun towers"; huge metal doors and bars being slammed shut behind them, as well as everything else associated with High, Medium, or Low custody.

The tragedy of this injustice is amplified by the sobering realization that the only thing petitioner has left, after serving almost 10 years in federal custody, are his promises, and his word to his children and family. Now, he has been placed in a position where he will disappoint his family once again. There are some instances where a person demonstrates he may be worthy of a second chance, where as other prisoners are comfortable with their lives in the current polluted environment. The second chance petitioner is requesting, is the opportunity to be heard completely and fairly in this pleading, so that in the end he will be able to show his family he had done his very best to keep that promise.

Respectfully presented,

Dated: _____

Joseph B. Bey, Jr., Pro se.
No. 21146-038
F.M.C. Devens, Box 879
Ayer, MA. 01432

CERTIFICATE OF SERVICE

I Joseph B. Bey, Jr. do hereby affirm and attest that I have mailed a copy of the attached motion to the Office of the Respondent, by way of the United States Attorney's Office, at One Courthouse Way, Boston, Massachusetts 02210, on this 31st day of November 2005. Signed pursuant to 28 U.S.C. § 1746.

Joseph B. Bey, Jr.

REGNO: 21146-038 FORM DATE: 02-09-1999 ORG: RBK
(A) NAME.....: BEY JOSEPH B
SEN LIMT.....: NONE MGMT VARIABLE...: LT SEC
PUB SAFETY...: GRT SVRTY, SENT LGTH MV EXPIRE: 06-08-1999

(B) DETAINER: (0) NONE SEVERITY.....: (7) GREATEST
LENGTH.....: (5) 84 PLUS MOS (MONTHS): 239
PRIOR.....: (3) SERIOUS ESCAPES.....: (0) NONE
VIOLENCE.....: (4) > 15 YRS SERIOUS PRECOMMT STATUS: (0) N/A

(C) TIME SERVED.....: (3) 0-25% DRUG/ALC INVOLV: (2) PAST 5 YRS
MENT/PSYCH STABILITY: (4) FAVORABLE TYPE DISCIP RPT: (5) NONE
FREQ DISCIP REPORT...: (3) NONE RESPONSIBILITY..: (4) GOOD
FAMILY/COMMUN TIES...: (4) GOOD

===== LEVEL AND CUSTODY SUMMARY =====
BASE SCORE CUST SCORE VARIANCE SEC TOTAL SEC LEVEL CUSTODY CONSIDER
+19 +25 0 +19 HIGH IN SAME

(D) TYPE REVIEW NEW CUSTODY APPROVED: YES NO NEXT REVIEW: 6-99
REGULAR MAX
EXCEPTION IN
OUT
COM
CHAIRPERSON SIGNATURE.....: C. Sullivan
WARDEN/DESIGNEE SIGNATURE
FOR EXCEPTION REVIEW:

REASON(S) FOR NOT FOLLOWING FORM'S RECOMMENDATION:

COPY: CENTRAL FILE, SECTION TWO
INMATE

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

RBKMJ 607.00 *
PAGE 001 OF 001

CUSTODY CLASSIFICATION FORM

* 07-31-1999
08:54:37

REGNO: 21146-038
(A) NAME.....: BEY
SEN LIMT.....: NONE
PUB SAFETY...: GRT SVRTY, SENT LGTH

FORM DATE: 07-31-1999
JOSEPH B
MGMT VARIABLE...: LT SECU
MV EXPIRE: 07-21-2000
ORG: RBK

(B) DETAINER: (0) NONE
LENGTH.....: (5) 84 PLUS MOS (MONTHS): 239
PRIOR.....: (3) SERIOUS
VIOLENCE.....: (4) > 15 YRS SERIOUS
SEVERITY.....: (7) GREATEST
ESCAPES.....: (0) NONE
PRECOMMT STATUS: (0) N/A

(C) TIME SERVED.....: (3) 0-25%
MENT/PSYCH STABILITY: (4) FAVORABLE
FREQ DISCIP REPORT...: (2) 1
FAMILY/COMMUN TIES...: (4) GOOD
DRUG/ALC INVOLV: (2) PAST 5 YRS
TYPE DISCIP RPT: (4) 1 LOW MOD
RESPONSIBILITY.: (2) AVERAGE

===== LEVEL AND CUSTODY SUMMARY =====
BASE SCORE CUST SCORE VARIANCE SEC TOTAL SEC LEVEL CUSTODY CONSIDER
+19 +21 0 +19 HIGH IN SAME

(D) TYPE REVIEW NEW CUSTODY APPROVED: YES NO NEXT REVIEW: 2/2000
REGULAR MAX
☒ EXCEPTION IN CHAIRPERSON SIGNATURE.....: C. Sullivan
OUT WARDEN/DESIGNEE SIGNATURE
COM FOR EXCEPTION REVIEW: _____

REASON(S) FOR NOT FOLLOWING FORM'S RECOMMENDATION:

COPY: CENTRAL FILE, SECTION TWO
INMATE

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

RBKMJ
PAGE 002

PROGRAM REVIEW REPORT

01-28-2000
13:25:58

CCC RECOMMENDATION: Will consider if eligible when 1yr. from release.

PROGRESS MADE SINCE LAST REVIEW: Maintained clear conduct, good work reports, completed standard of living. Participating in FRP.

GOALS FOR NEXT PROGRAM REVIEW MEETING: Maintain clear conduct, good work reports and good sanitation. Continue to participate in counseling programs. Continue to participate in FRP.

LONG TERM GOALS: Reduce security level, establish a solid release plan which includes a firm offer of residence or employment. Determine if recreation will be necessary (Colorado). Save a substantial amount of \$ for release.

OTHER INMATE REQUESTS/TEAM ACTIONS:

RBKMJ 607.00 *
PAGE 001 OF 001

MALE CUSTODY CLASSIFICATION FORM

02-08-2000
13:52:42

REGNO: 21146-038
(A) NAME.....: BEY
DES FACL/LEV: RBK /MEDIUM
PUBSFTY: GRT SVRTY, SENT LGTH

FORM DATE: 02-08-2000
JOSEPH B
MGTV: NONE
MVED:

ORG: RBK

(B) DETAINER: (0) NONE
MOS REL.....: 238
PRIOR.....: (0) NONE
VIOLENCE.....: (2) > 15 YRS SERIOUS

SEVERITY.....: (7) GREATEST
ESCAPES.....: (0) NONE
PRECOMMT STATUS: (0) N/A

(C) TIME SERVED.....: (3) 0-25%
MENT/PSYCH STABILITY: (4) FAVORABLE
FREQ DISCIP REPORT..: (2) 1
FAMILY/COMMUN TIES..: (4) GOOD

DRUG/ALC ABUSE..: (3) > 5 YRS
TYPE DISCIP RPT: (4) 1 LOW MOD
RESPONSIBILITY..: (2) AVERAGE

===== LEVEL AND CUSTODY SUMMARY =====
BASE CUST VARIANCE SEC TOTAL SCORED LEV MGMT SEC LEVEL CUSTODY CONSIDER
+9 +22 0 +9 MEDIUM N/A IN SAME

(D) TYPE REVIEW NEW CUSTODY APPROVED: YES NO NEXT REVIEW: 2-2001
REGULAR MAX
EXCEPTION IN CHAIRPERSON SIGNATURE....: C Sullivan
OUT WARDEN/DESIGNEE SIGNATURE
COM FOR EXCEPTION REVIEW: _____

REASON(S) FOR NOT FOLLOWING FORM'S RECOMMENDATION:

COPY: CENTRAL FILE, SECTION TWO
INMATE

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

RBKMJ
PAGE 001

PROGRAM REVIEW REPORT

08-05-2000
09:10:10

INSTITUTION: RBK RAY BROOK FCI

NAME.....: BEY, JOSEPH B
RESIDENCE...: HYANNIS, MA 02601

REG. NO: 21146-038

TYPE OF REVIEW.....: INITIAL CLASSIFICATION PROGRAM REVIEW
NEXT REVIEW DATE.....: 2-2001PROJ. RELEASE DATE...: 12-29-2019
PAROLE HEARING DATE..: NONERELEASE METHOD.: GCT REL
HEARING TYPE....: NONEDATE OF NEXT CUSTODY REVIEW: 2-2001DETAINERS (Y/N) NCIM STATUS (Y/N).... (Y)IF YES, RECONCILED (Y/N): OKPENDING CHARGES.....: None knownOFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N).....: PU CD

CATEGORY	CURRENT ASSIGNMENT	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE	07-21-2001 1556
CMA	RPP NEEDS	RELEASE PREP PGM NEEDS	12-29-2017 1559
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394	08-07-1998 1556
CMA	V94 PV	V94 PAST VIOLENCE	08-07-1998 1556
CUS	IN	IN CUSTODY	06-08-1998 1010
DRG	DRG E COMP	DRUG EDUCATION COMPLETED	03-30-1999 1028
DRG	DRG I NONE	NO DRUG INTERVIEW REQUIRED	08-07-1998 1555
EDI	ESL HAS	ENGLISH PROFICIENT	07-16-1998 1515
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA	03-11-1999 0001
FRP	PART	FINANC RESP-PARTICIPATES	08-10-1998 1400
LEV	MEDIUM	SECURITY CLASSIFICATION MEDIUM	01-28-2000 1324
MDS	REG DUTY	NO MEDICAL RESTR--REGULAR DUTY	08-05-1998 1606
MDS	YES F/S	CLEARED FOR FOOD SERVICE	07-29-1998 0001
QTR	G07-250U	HOUSE G/RANGE 07/BED 250U	02-16-2000 1008
RLG	OTHER	OTHER RELIGION	01-28-2000 1329
WRK	TOOL ROOM	TOOL ROOM	12-22-1999 0001

WORK PERFORMANCE RATING: Tool room - excellent work reports -Demonstrates good responsibility. Grade 1.INCIDENT REPORTS SINCE LAST PROGRAM REVIEW: (CCO completed 6-99
(400 level incident report for Poss - 3 month/100 reports)FRP PLAN/PROGRESS: Participates on a 25/012 schedule -Consistent for missing payments 275 bal./400RELEASE PREPARATION PARTICIPATION: Release plans are ensured.Has 5 years of S.R. in Dist. of Mass.

RBKMJ
PAGE 002

PROGRAM REVIEW REPORT

08-05-2000
09:10:10CCC RECOMMENDATION: Will discuss when approx 12 months from release.PROGRESS MADE SINCE LAST REVIEW: Maintained clear conduct, good work reports and made FRP paymentsGOALS FOR NEXT PROGRAM REVIEW MEETING: You have not participated in any program this past 6 months. Recommend Business Program (Mr. Stone) begin by October 1, 2000 and complete by December 30, 2000. Also consider Workplace Basics Pgm begin by Oct 1, complete by Dec 1, 2000. Maintain clear conduct, good work reports and continue to participate in FRP.LONG TERM GOALS: Reduce custody / security levels, complete FRP obligations and establish a solid release plan. You should complete a release program prior to release and save \$. Attempt to secure a halfway house prior to release.OTHER INMATE REQUESTS/TEAM ACTIONS: You are subject to the VCCLEA notification based on your current Federal Drug Trafficking crime and prior conviction of a Crime of violence.

RBKMJ 607.00 *
PAGE 001 OF 001

MALE CUSTODY CLASSIFICATION FORM

* 02-06-2001
09:05:58REGNO: 21146-038
(A) NAME.....: BEY
DES FACL/LEV: RBK /MEDIUM
PUBSFTY: GRT SVRTY, SENT LGTHFORM DATE: 02-06-2001
JOSEPH B
MGTV: NONE
MVED:

ORG: RBK

(B) DETAINER: (0) NONE
MOS REL.....: 226
PRIOR.....: (0) NONE
VIOLENCE.....: (2) > 15 YRS SERIOUSSEVERITY.....: (7) GREATEST
ESCAPES.....: (0) NONE
PRECOMMT STATUS: (0) N/A(C) TIME SERVED.....: (3) 0-25%
MENT/PSYCH STABILITY: (4) FAVORABLE
FREQ DISCIP REPORT...: (3) NONE
FAMILY/COMMUN TIES...: (4) GOODDRUG/ALC ABUSE..: (3) > 5 YRS
TYPE DISCIP RPT: (5) NONE
RESPONSIBILITY..: (4) GOOD

===== LEVEL AND CUSTODY SUMMARY =====

BASE	CUST	VARIANCE	SEC TOTAL	SCORED	LEV	MGMT	SEC LEVEL	CUSTODY	CONSIDER
+9	+26	-2	37		LOW	N/A		IN	DECREASE

(D) TYPE REVIEW NEW CUSTODY APPROVED: YES ☒ NO NEXT REVIEW: 2-6-02

REGULAR MAX
☒ EXCEPTION IN CHAIRPERSON SIGNATURE.....: [Signature]
OUT WARDEN/DESIGNEE SIGNATURE.....: [Signature]
COM FOR EXCEPTION REVIEW: _____

REASON(S) FOR NOT FOLLOWING FORM'S RECOMMENDATION: *Due to history of serious violence, sentence length and GS PSF, out custody is not appropriate at this time.*

COPY: CENTRAL FILE, SECTION TWO
INMATEG5149 INMATE/DESIG FACL LEVEL MISMATCHED, HAVE REGION ADD A MGTV
G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

RBKMJ
PAGE 001

PROGRAM REVIEW REPORT

02-06-2001
09:06:26

INSTITUTION: RBK RAY BROOK FCI

NAME.....: BEY, JOSEPH B
RESIDENCE...: HYANNIS, MA 02601

REG. NO: 21146-038

TYPE OF REVIEW.....: INITIAL CLASSIFICATION PROGRAM REVIEW
NEXT REVIEW DATE.....: 8-6-01PROJ. RELEASE DATE...: 12-29-2019
PAROLE HEARING DATE..: NONERELEASE METHOD..: GCT REL
HEARING TYPE...: NONEDATE OF NEXT CUSTODY REVIEW: 2-6-02 DETAINERS (Y/N): NCIM STATUS (Y/N)....: Y IF YES, RECONCILED (Y/N): OKPENDING CHARGES.....: UnknownOFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N).....: Y/C
IF YES - CIRCLE ONE - DRUG TRAFFICKING/CURRENT VIOLENCE/PAST VIOLENCE

CATEGORY	CURRENT ASSIGNMENT	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE	07-21-2001 1556
CMA	RPP NEEDS	RELEASE PREP PGM NEEDS	12-29-2017 1559
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394	08-07-1998 1556
CMA	V94 PV	V94 PAST VIOLENCE	08-07-1998 1556
CUS	IN	IN CUSTODY	06-08-1998 1010
DRG	DRG E COMP	DRUG EDUCATION COMPLETED	03-30-1999 1028
DRG	DRG I NONE	NO DRUG INTERVIEW REQUIRED	08-07-1998 1553
EDI	ESL HAS	ENGLISH PROFICIENT	07-16-1998 1515
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA	03-11-1999 0301
FRP	PART	FINANC RESP-PARTICIPATES	08-10-1998 1400
LEV	LOW	SECURITY CLASSIFICATION LOW	02-06-2001 0905
MDS	REG DUTY	NO MEDICAL RESTR--REGULAR DUTY	08-05-1998 1606
MDS	YES F/S	CLEARED FOR FOOD SERVICE	07-29-1998 0001
QTR	G07-250L	HOUSE G/RANGE 07/BED 250L	10-02-2000 1117
RLG	OTHER	OTHER RELIGION	01-28-2000 1329
WRK	TOOL ROOM	TOOL ROOM	12-22-1999 0001

WORK PERFORMANCE RATING: Tool Room Ark. Mr. Taylor's timeof Work Area determined excellent workerINCIDENT REPORTS SINCE LAST PROGRAM REVIEW: Close conduct since
6-89.FRP PLAN/PROGRESS: participate 25/month on \$400 consent
Balance = \$175RELEASE PREPARATION PARTICIPATION: Will begin 12-27-2007.

RBKMJ
PAGE 002

PROGRAM REVIEW REPORT

02-06-2001
09:06:26

CCC RECOMMENDATION: Will discuss when 11-13 months
from release.

PROGRESS MADE SINCE LAST REVIEW: Class conduct. Excellent
Wrote reports and Enrolled in NFPT.

GOALS FOR NEXT PROGRAM REVIEW MEETING: Continue to participate
in NFPT - Complete by July 1, 2001.
\$ Save \$25/month to send home - Child support

LONG TERM GOALS: Pursue Distance Education Pgms
in Business Law.

OTHER INMATE REQUESTS/TEAM ACTIONS: Subject to UCCLEA
notification requirements.

\$ As we now a low level inmate:
Will consider to fer to low level
facility (Ft. Devens).

DEVBA 607.00 *
PAGE 001 OF 001

MALE CUSTODY CLASSIFICATION FORM

06-21-2001
15:24:26REGNO: 21146-038
(A) NAME.....: BEY
DES FACI/LEV: DEV LOW /LOW
PUBSFTY: GRT SVRTY, SENT LGTHFORM DATE: 06-21-2001
JOSEPH B
MGTV: NONE
MVED:

ORG: DEV

(B) DETAINER: (0) NONE
MOS REL.....: 222
PRIOR.....: (0) NONE
VIOLENCE.....: (2) > 15 YRS SERIOUSSEVERITY.....: (7) GREATEST
ESCAPES.....: (0) NONE
PRECOMMT STATUS: (0) N/A(C) TIME SERVED.....: (4) 26-75%
MENT/PSYCH STABILITY: (4) FAVORABLE
FREQ DISCIP REPORT...: (3) NONE
FAMILY/COMMUN TIES...: (4) GOODDRUG/ALC ABUSE.: (3) > 5 YRS
TYPE DISCIP RPT: (5) NONE
RESPONSIBILITY.: (4) GOOD

===== LEVEL AND CUSTODY SUMMARY =====									
BASE	CUST	VARIANCE	SEC TOTAL	SCORED LEV	MGMT	SEC LEVEL	CUSTODY	CONSIDER	
+9	+27	-3	+6	LOW	N/A		IN	DECREASE	

(D) TYPE REVIEW NEW CUSTODY APPROVED: YES ☒ NO ☐ NEXT REVIEW: 6/21/2002

REGULAR MAX
☒ EXCEPTION ☒ IN
OUT
COM

CHAIRPERSON SIGNATURE: *[Signature]*
WARDEN/DESIGNEE SIGNATURE
FOR EXCEPTION REVIEW:

REASON(S) FOR NOT FOLLOWING FORM'S RECOMMENDATION:

A reduction in custody is not warranted at this time due to Mr. Bey PSF 8

Greatest Severity & Sentence Length.
Additionally, Mr. Bey has 222 months remaining to serve.

COPY: CENTRAL FILE, SECTION TWO
INMATE

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

PAGE 001 OF 001 *

INMATE FINANCIAL RESPONSIBILITY
UPDATE USDC FINANCIAL OBLIGATION09-10-2002
11:48:23

REGNO: 21146-038 LNAME: BEY OBLG NO: 1 FUNC: DIS
FIN DOC NO: 1 FRP ASGN: PART CAUSE OF ACTION: XCVF
TYPE OBLG.: ASSESSMENT USDC
COJ/COJ OV: FMA DOCKET NO: 1:96CR10178-003 DATE IMPOSED.: 03-11-1998
AMT IMP....: 400.00 WHEN PAYABLE.: IMMEDIATE
USAO NO....: OBLG STATUS...: COMPLETEDZ
FIXED PAYMENT AMT.....:
CALCULATED EXPIRATION DATE....: 03-11-2003 MANUAL EXPIRATION DATE:
FINANCIAL LITIGATION UNIT ADDRESS:
ONE COURTHOUSE WAY
U.S. COURTHOUSE SUITE 9200
BOSTON MA 02210
COMM NO: AREA: 617 NO: 748-3309 EXT:
FTS NO: AREA: NO: EXT: FAX NO: AREA: 617 NO: 748-3972
TOTPAY(-): 400.00 TOTREF(+): 0.00 TOTCOR(+): 0.00
OBLG BALANCE...: 0.00 DT LAST PAYMENT.: 09-06-2002
DT LAST REFUND: DT FINAL PAYMENT: 09-06-2002
DT OBLG ADDED.: 07-30-1998 DT LAST UPDATED.: 09-06-2002 USERID: AUTODED

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

(A) IDENTIFYING DATA

REG NO.: 21146-038
NAME: BEY, JOSEPH B
PUB SFTY: GRT SVRTY, SENT LGTH
MGTV: NONE
MVED:

FORM DATE: 09-13-2004

ORG: DEV
CR HX PT: 5

(B) BASE SCORING

DETAINER: (0) NONE
MOS REL.: 183
ESCAPES.: (0) NONE
PRECOMMT: (0) N/A
SEVERITY: (7) GREATEST
PRIOR: (0) NONE
VIOLENCE: (2) > 15 YRS SERIOUS

(C) CUSTODY SCORING

TIME SERVED: (4) 26-75%
MENTAL STABILITY: (4) FAVORABLE
FREQ DISCIP RPT.: (3) NONE
FAMILY/COMMUN.: (4) GOOD
DRUG/ALC ABUSE.: (3) > 5 YRS
TYPE DISCIP RPT: (5) NONE
RESPONSIBILITY.: (4) GOOD

--- LEVEL AND CUSTODY SUMMARY ---

BASE CUST	VARIANCE	SEC TOTAL	SCORED	LEV	MGMT	SEC LEVEL	CUSTODY	CONSIDER
+9	+27	-3	+6	LOW	N/A		IN	DECREASE

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

CUSTODY CLASSIFICATION FORM INSTRUCTIONS - MALE (BP-338)

INTRODUCTION

Custody classification is a procedure whereby inmates are assigned levels according to their criminal histories and institutional behavior/adjustment. An inmate's custody level is an indication of how much staff supervision is required for an inmate within and beyond the confines of the institution.

An inmate's initial custody classification shall be scored at the first program review following initial classification (approximately 7 months after arrival at an institution). Subsequent reviews shall occur at least every 12 months, but may be conducted earlier in order to enable progress toward community activities. Custody classification shall ordinarily occur in conjunction with every second program review.

Ordinarily, an inmate's security level and custody level shall be reviewed following any new sentence or sentence reduction, or any time a change in external factors or disciplinary action might affect the security or custody level.

When transferring to another institution, inmates normally retain their custody assignments. If the custody level is inconsistent with that authorized at the receiving institution, the sending institution shall change the inmate's custody prior to transfer. Holdovers shall retain their custody level assignments until received at the designated institution.

At each annual custody review, a new Custody Classification Form shall be completed, even though the scoring elements may not have changed from the previous form. Only the most current Custody Classification Form shall be retained in the Inmate Central File, except for those forms that must be retained to document appropriate review and approval for custody reductions (e.g., custody reductions for exception cases require the Warden, or designee, to sign the Custody Classification Form. The form should be maintained to document the review and approval). As set forth in the definition of maximum custody, Chapter 2, a BP-338 form changing custody to or from maximum custody must be permanently maintained.

It should be clearly understood that the Custody Classification Form only recommends an inmate's custody. The unit team and/or Warden is the final review authority. The intent of the Custody Classification system is to permit staff to use professional judgment within specific guidelines. Custody changes are not dictated by the point total. However, when the unit team decides not to follow the recommendation of the point total, they must

PUBLIC SAFETY FACTORS. There are certain demonstrated behaviors which require increased security measures to ensure the protection of society. There are nine Public Safety Factors (PSFs) which are applied to inmates who are not appropriate for placement at an institution which would permit inmate access to the community (i.e., MINIMUM security). The application of a PSF overrides security point scores to ensure the appropriate security level is assigned to an inmate, based on his or her demonstrated current or prior behavior.

REDESIGNATION. The reassignment of an inmate from one institution to another after initial designation. Unit staff submit a request to the appropriate office, and the inmate's case is reviewed for possible transfer. Approval of a redesignation results in an order from the Regional Office, Central Office, or CCM indicating a correctional institution to which an inmate is to be transferred.

RELEASE RESIDENCE. The verifiable destination to which an inmate realistically plans to reside upon release from Bureau custody. The inmate is to provide proof of residence to his or her unit staff. Staff shall rely upon the following references to assist in verification: Presentence Investigation Report/USPO verification; telephone and visiting lists; incoming and outgoing mail. Attempts shall be made to place inmates in the most appropriate security level institution within 500 miles from his or her release residence. Based on security needs and population pressures, placement may not always be at the closest institution within a 500-mile radius of a release residence.

SECONDARY DESIGNATION. Designation of an institution to which an inmate is to be moved after completion of some treatment, program, or process.

SECURITY CUT POINT. The numerical break between inmate security levels.

SECURITY LEVEL. Used to describe the structural variables and inmate-to-staff ratio provided at the various types of Bureau institutions (i.e., Minimum, Low, Medium, High). It also identifies the institution type required to house inmates based on their histories, institutional adjustment, and Public Safety Factors as well as the physical security of the institution to include mobile patrols, gun towers, perimeter barriers, housing, detection devices, inmate-to-staff ratio, and internal security.

IN custody are not eligible for work details or programs outside the institution's secure perimeter.

MANAGEMENT SECURITY LEVEL (MSL). Management Security Level is the security level assigned by the Regional Director or Designee to an inmate upon application of any of the following Management Variables:

- PSF Waived;
- Greater Security; and
- Lesser Security.

Based on these Management Variables, the Management Security Level will normally be one security level greater or lesser than the scored security level.

MANAGEMENT VARIABLES. Management Variables (MGTVs) reflect and support the professional judgment of Bureau staff to ensure the inmate's placement in the most appropriate level institution. Management Variables are required when placement has been made and/or maintained at an institution level inconsistent with the inmate's security score - a score which may not completely/accurately reflect his or her security needs.

* **MAXIMUM CUSTODY.** The highest custody level assigned to an inmate requiring the highest level of security and staff supervision. An inmate with Maximum custody requires ultimate control and supervision. This classification is for individuals who, by their behavior, have been identified as assaultive, predacious, riotous, serious escape risks, or seriously disruptive to the orderly running of an institution. Accordingly, quarters and work assignments are assigned to ensure maximum control and supervision. A custody change to or from Maximum custody must be justified thoroughly on the BP-338 form and maintained permanently in the Inmate Central File. *

MISDEMEANANT. An inmate convicted of an offense for which the maximum penalty is one year or less. Such inmates may not be transferred to a High security institution without first signing a waiver. 18 U.S.C. § 4083 prohibits placement of such inmates in "penitentiaries" without their consent; however, the Bureau broadens that prohibition to include any High security institution. A sample of the waiver is provided in Appendix D.

OUT CUSTODY. The second lowest custody level assigned to an inmate requiring the second lowest level of security and staff supervision. An inmate who has **OUT** custody may be assigned to less secure housing and may be eligible for work details outside the institution's secure perimeter with a minimum of two-hour intermittent staff supervision.

PS 5100.07

9/3/99

Appendix B, Page 1

OFFENSE SEVERITY SCALE

GREATEST SEVERITY

Aircraft Piracy - placing plane or passengers in danger
Arson - substantial risk of death or bodily injury
Assault - serious bodily injury intended or permanent or life threatening bodily injury resulting)
Car Jacking - any
Drug Offense - see criteria below*
Escape - closed institution, secure custody, force or weapons used
Espionage - treason, sabotage, or related offenses
Explosives - risk of death or bodily injury
Extortion - weapon or threat of violence
Homicide or Voluntary Manslaughter - any
Kidnaping - abduction, unlawful restraint, demanding or receiving ransom money
Robbery - any
Sexual offenses - rape, sodomy, incest, carnal knowledge, transportation with coercion or force for commercial purposes
Toxic Substances/Chemicals: - weapon to endanger human life
Weapons - distribution of automatic weapons, exporting sophisticated weaponry, brandishing or threatening use of a weapon

* Any **drug offender** whose current offense includes the following criteria shall be scored in the Greatest severity category:

The offender was part of an organizational network and he or she organized or maintained ownership interest/profits from **large-scale** drug activity,

AND

the drug amount equals or exceeds the amount below:

Cocaine - greater than or equal to 10,000 gm, 10 K, or 22 lb
Cocaine Base "Crack" - greater than or equal to 31 gm
Hashish - greater than or equal to 250,000 gm, 250 K, or 551 lb
Marijuana - greater than or equal to 620,000 gm, 620 K, or 1,367 lb
PCP - greater than or equal to 100,000 mg, 100 gm, or 20,000 dosage units
Heroin or Opiates - greater than or equal to 2,000 gm, 2 K, or 4.4 lb
Methamphetamine - greater than or equal to 16,000 gm, 17 K, or 35 lbs
Other illicit drugs: - Amphetamine, Barbiturates, LSD, etc. greater than or equal to 250,000 dosage units

DISCONTINUED PUBLIC SAFETY FACTORS

D Firearms
E High Drug
J Designation Assessment

REQUEST FOR PUBLIC SAFETY FACTOR WAIVER. Only the Regional Director or designee is authorized to waive a PSF. A request for waiver of a PSF shall be submitted to the Regional Office via GroupWise form EMS 409, available on BOPDOCS. The form shall be completed as described below:

(1) This item should indicate the request is for waiver of a Public Safety Factor.

(2) This item should indicate whether the inmate agrees with the recommended team action. If appropriate, an explanation should be provided.

(3) This item should include current, complete, and accurate information concerning any medical problems the inmate is experiencing.

(4) This item should include a brief description of the inmate's adjustment during this period of incarceration.

(5) This item should provide disciplinary information including all actions reflected on the current Custody Classification Form (BP-338). Significant histories should be summarized.

(6) It is important that the rationale include complete and specific information providing justification to support the requested action.

(7) Indicate whether or not the inmate is eligible for a parole hearing. If yes, indicate the date of the hearing.

<p>DRUG ORGANIZER/LEADER EXPLANATION OF FUNCTION DEFINITIONS</p>
--

Read the "Offense Conduct" section of the PSI and any other available information to understand what the inmate did in the criminal activity. The functions are listed in descending order of SERIOUSNESS.

<p>DRUG ORGANIZER/LEADER</p>

Importer/High-Level Supplier: imports or otherwise supplies large quantities of drugs; is at or near the top of the distribution chain; has ownership interest in drugs (not merely transporting drugs for another individual); usually supplies drugs to other drug distributors and does not deal in retail amounts; may employ no or very few subordinates.

Organizer/Leader: organizes, leads, directs, or otherwise runs a drug distribution organization. Receives the largest share of the profits and has the greatest decision-making authority.

Grower/Manufacturer: grows, cultivates, or manufactures a controlled substance, and is the principal owner of the drugs. (Keep in mind, the intent of this definition is to capture the individual who has the capability to manufacture enormous amounts of drugs in his garage/lab for example, and not the individual who is growing only five marijuana plants in his basement.)

Financier/Money Launderer: provides money for purchase, importation, manufacture, cultivation, transportation, or distribution of drugs; launders proceeds of drug sales or purchases.

Aircraft Pilot/Vessel Captain: pilots vessel or aircraft; requires special skill; does not include inmate who is the only participant directing a small boat (i.e., a speed boat) onto which drugs had been loaded from a "mother ship" (such person is a courier).

NOT A DRUG ORGANIZER/LEADER

Manager: serves as a lieutenant to assist one of the above; manages all or a significant portion of the manufacturing, importation, or distribution operation; takes instructions from one of the above and conveys to subordinates; directly supervises at least one other co-participant in an organization of at least five co-participants.

Bodyguard/Strongman/Debt Collector: provides physical and personal security for another co-participant in the offense; collects debts owed, or punishes recalcitrant persons.

Chemists/Cooks/Chemical Supplier: produces LSD, methamphetamine, crack cocaine, or other illegal drugs, but does not qualify as a Grower/Manufacturer because he/she is not the principal owner of the drugs. Chemical supplier does not handle drugs themselves but engages in the unlawful diversion, sale, or furnishing of listed chemicals or equipment used in the synthesis or manufacturing of controlled substances.

Supervisor: supervises at least one other co-participant, however, has limited authority and does not qualify as a Manager.

Street-Level Dealer: distributes retail quantities directly to the user.

Broker/Steerer/Go-Between: arranges for two parties to buy/sell drugs, or directs potential buyer to a potential seller.

Courier: transports or carries drugs with the assistance of a vehicle or other equipment. Includes situations where inmate, who is otherwise considered to be a crew member, is the only participant directing a vessel (e.g., a speed boat) onto which drugs had been loaded from a "mother ship".

Mule: transports or carries drugs internally or on their person, often by airplane, or by walking across a boarder. Also includes an inmate who only transports or carries drugs in baggage, souvenirs, clothing, or otherwise.

Renter/Storer: provides (for profit/compensation) own residence, structures (barns, storage bins, buildings), land, or equipment for use to further the offense. This inmate is distinguished from the enabler because he/she is paid (in some way) for his/her services.

Money runner: transports/carries money and/or drugs to and from the street-level dealer.

Off-loader/Loader: performs the physical labor required to put large quantities of drugs into storage, hiding, or onto some mode of transportation.

Gopher/Lookout/Deckhand/Worker/Employee: performs very limited, low-level function in the offense (whether or not ongoing); includes running errands, answering the telephone, receiving packages, packaging the drugs, manual labor, acting as lookout to provide early warnings during meetings, exchanges, or off-loading, or acting as deckhand/crew member on vessel or aircraft used to transport large quantities of drugs.

Enabler (Passive): plays no more than a passive role in the offense, knowingly permitting a certain unlawful criminal activity to take place without actually being involved with the activity; may be coerced or unduly influenced to play such a function (e.g., a parent or grandparent threatened with displacement from a home unless they permit the activity to take place), or may do so as "a favor" (without compensation).

User Only: possessed small amount of drugs apparently for personal use only; no apparent function in any conspiratorial criminal activity.

Wholesaler: sells more than retail/user-level quantities (greater than one ounce) in a single transaction.